



(Billing Code 5001-06)

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

[Docket DARS-2015-0052]

RIN 0750-AI76

Defense Federal Acquisition Regulation Supplement: Duty-Free Entry Threshold (DFARS Case 2015-D036)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed Rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update the threshold for duty-free entry on foreign supplies that are not qualifying country supplies or eligible foreign supplies.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before **[Insert date 60 days after date of publication in the FEDERAL REGISTER]**, to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to DFARS Case 2015-D036 by any of the following methods:

- o Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering "DFARS Case 2015-D036" under the heading "Enter keyword or ID" and

selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2015-D036." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2015-D036" on your attached document.

- o E-mail: osd.dfars@mail.mil. Include DFARS Case 2015-D036 in the subject line of the message.

- o Fax: 571-372-6094.

- o Mail: Defense Acquisition Regulations System, Attn: Ms. Kyoung Lee, OUSD(AT&L) DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Kyoung Lee, telephone: 571-372-6093.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise DFARS 225.9, Customs and Duties, and the clause at DFARS 252.225-7013, Duty-Free Entry, by increasing the duty-free entry threshold on nonqualifying

country supplies and ineligible foreign supplies from \$200 to \$300. The current threshold was established on April 30, 2003 based on the estimated cost to process a duty-free entry certificate at the time. This proposed rule makes an upward adjustment of the \$200 threshold to \$300 based on the U.S. Consumer Price Index (CPI) located at <http://www.bls.gov/CPI/>.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et

seq., because this rule only makes an upward adjustment of an administrative threshold. However, an initial regulatory flexibility analysis has been prepared consistent with 5 U.S.C. 603 and is summarized as follows:

The objective of this rule is to revise DFARS 225.9, Customs and Duties, and the clause at DFARS 252.225-7013, Duty-Free Entry, by increasing the duty-free entry threshold on nonqualifying country supplies and ineligible foreign supplies from \$200 to \$300. The current threshold, established in 2003, was based on the estimated cost to process a duty-free entry certificate at the time. This rule proposes to make the upward adjustment to reflect annual inflation rates (based on the U.S. Consumer Price Index) that have occurred in the last 12 years.

Current data indicates, on average, approximately 31,500 duty-free entry certificates on foreign supplies for DoD per year. DoD does not expect a change in the estimated duty-free entry processes. As such, small entities will not be materially affected by this rule.

This rule does not impose any additional reporting, recordkeeping, and other compliance requirements. This rule does not duplicate, overlap, or conflict with any other Federal rules. There are no known significant alternatives to the rule. The impact of this rule on small business is not expected to be significant.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities. DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2015-D036), in correspondence.

VI. Paperwork Reduction Act

The rule affects the information collection requirements in the clause at DFARS 252.225-7013, currently approved under OMB Control Number 0704-0229, titled Foreign Acquisition, in accordance with the Paperwork Reduction Act (44.U.S.C. chapter 35). The impact, however, is negligible, because this rule only makes an upward adjustment of the duty-free entry threshold from the \$200 to \$300.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 225 and 252 are proposed to be amended as follows:

1. The authority citation for parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 225—FOREIGN ACQUISITION

225.901 [Amended]

2. In section 225.901, amend paragraph (3) by removing "\$200" and adding "\$300" in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.225-7013 [Amended]

3. Amend section 252.225-7013 by—

- a. Removing the clause date "(NOV 2014)" and adding "(DATE)" in its place; and
- b. Amending paragraph (b) (3) by removing "\$200" and adding "\$300" in its place.

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